

A NONSUBSTANTIVE REVISION
OF STATUTES RELATING TO
SOLVENCY OF INSURERS, PROPERTY AND CASUALTY
INSURANCE, OTHER TYPES OF INSURANCE COVERAGE,
AND UTILIZATION REVIEW AND INDEPENDENT REVIEW

Submitted to the 79th Legislature
as part of the
Texas Legislative Council's
Statutory Revision Program

Austin, Texas

2005

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Revisor's Note

Section 6, V.T.I.C. Article 5.145, authorizes the commissioner of insurance to adopt reasonable and necessary rules to implement Article 5.145. In addition to Section 6, Sections 1, 2, 3, and 4 of that article are revised as this subchapter, and Section 5 is revised as Section 501.159 of this code. The revised law substitutes "this subchapter" for "this article" and does not refer to Section 501.159 because the substance of Section 6 is repeated in Section 501.159.

TITLE 12. OTHER COVERAGE

- CHAPTER 3501. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE
- CHAPTER 3502. MORTGAGE GUARANTY INSURANCE
- CHAPTER 3503. SURETY BONDS AND RELATED INSTRUMENTS

TITLE 12. OTHER COVERAGE

- CHAPTER 3501. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE
 - Sec. 3501.001. DEFINITION 1614
 - Sec. 3501.002. AUTHORIZATION 1615
 - Sec. 3501.003. RATES AND FORMS 1615
- CHAPTER 3501. CREDIT INVOLUNTARY UNEMPLOYMENT INSURANCE

Revised Law

Sec. 3501.001. DEFINITION. In this chapter, "credit involuntary unemployment insurance" means insurance that indemnifies a debtor for installment or other periodic payments on an indebtedness while the debtor is involuntarily unemployed. The term includes policy forms and endorsements that define involuntary unemployment to provide coverage and a premium charge for interruption or reduction of a debtor's income during periods of leave, whether paid or unpaid, authorized by the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.), as amended, or other state or federal law. (V.T.I.C. Art. 21.79E (part).)

Source Law

Art. 21.79E. [Any insurer authorized to write any form of casualty insurance in this state shall also be authorized to write group or individual] credit involuntary unemployment insurance indemnifying a debtor for installment or other periodic payments on the indebtedness while the debtor is involuntarily unemployed, including policy forms and endorsements which define involuntary unemployment to provide coverage and a premium charge for interruption or reduction of a debtor's income during periods of leave (paid or otherwise) authorized by the Federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.), as amended, or other state or federal laws. . . .

Revisor's Note

The definition of "credit involuntary unemployment insurance" is added to the revised law for drafting convenience and to eliminate unnecessary repetition of the substance of the definition.

Revised Law

Sec. 3501.002. AUTHORIZATION. (a) Any insurer authorized to write any form of casualty insurance in this state may also write group or individual credit involuntary unemployment insurance.

(b) Credit involuntary unemployment insurance may be written alone or in conjunction with credit life insurance, credit accident and health insurance, or both, in a policy issued by an authorized insurer.

(c) Credit involuntary unemployment insurance may not be written in contravention of Chapter 15, Business & Commerce Code. (V.T.I.C. Art. 21.79E (part).)

Source Law

Art. 21.79E. Any insurer authorized to write any form of casualty insurance in this state shall also be authorized to write group or individual credit involuntary unemployment insurance Such insurance may be written alone or in conjunction with credit life insurance, credit accident and health insurance, or both, in policies issued by any authorized insurer, but not in contravention of the Texas Free Enterprise and Antitrust Act of 1983 (Chapter 15, Business & Commerce Code). . . .

Revised Law

Sec. 3501.003. RATES AND FORMS. Rates and forms for credit involuntary unemployment insurance must be set and filed in

1 accordance with Chapters 2251 and 2301 and Article 5.13-2.
2 (V.T.I.C. Art. 21.79E (part).)

3 Source Law

4 Art. 21.79E. . . . Rates and forms for such
5 insurance may be made and filed in accordance with
6 Article 5.13-2 of this code.

7 Revisor's Note

8 V.T.I.C. Article 21.79E states that rates and
9 forms for credit involuntary unemployment insurance
10 "may be made and filed" in accordance with V.T.I.C.
11 Article 5.13-2, revised in part in Chapters 2251 and
12 2301 of this code. Although Chapter 2251 is also
13 derived in part from V.T.I.C. Article 5.13-2C and
14 Chapter 2301 is also derived in part from V.T.I.C.
15 Article 5.145, the revised law appropriately refers to
16 both chapters in their entirety because Article
17 5.13-2C relates only to certain insurers writing
18 residential property insurance and Article 5.145
19 relates only to personal automobile and residential
20 property insurance; therefore, the provisions of
21 Chapters 2251 and 2301 derived from Articles 5.13-2C
22 and 5.145 are inapplicable by their own terms to rates
23 and forms for credit involuntary unemployment
24 insurance.

25 In addition, the revised law substitutes "must"
26 for "may" because Article 5.13-2 was amended by
27 Chapter 206, Acts of the 78th Legislature, Regular
28 Session, 2003, to list involuntary unemployment
29 insurance as a type of insurance to which that article
30 applies. As a result, it is clear that rates and forms
31 for credit involuntary unemployment insurance are
32 required to be set and filed in accordance with Article
33 5.13-2, and the revised law is drafted accordingly.

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7 CHAPTER 3502. MORTGAGE GUARANTY INSURANCE

8 SUBCHAPTER A. GENERAL PROVISIONS

9 Revised Law

10 Sec. 3502.001. APPLICABILITY OF CHAPTER. This chapter

11 applies only to mortgage guaranty insurance and does not affect any

12 other provision of this code. (V.T.I.C. Art. 21.50, Sec. 1A(a).)

13 Source Law

14 Sec. 1A. (a) The procedures as set forth herein

15 shall govern mortgage guaranty insurance as defined in

16 this article but shall not affect any other of the

17 provisions of this code.

18 Revised Law

19 Sec. 3502.002. APPLICABILITY OF OTHER LAW. (a) This code

20 and other state laws apply to the business of mortgage guaranty

21 insurance.

22 (b) This chapter controls to the extent of any conflict with

23 another provision of this code or other state law. (V.T.I.C.

24 Art. 21.50, Sec. 10.)

25 Source Law

26 Sec. 10. All the applicable provisions of this

27 Code and of other statutes of this State, except as the

28 same may be in conflict herewith, shall apply to the

29 operation and conduct of mortgage guaranty insurance

30 business.

31 Revised Law

32 Sec. 3502.003. MORTGAGE GUARANTY INSURANCE DEFINED. In

33 this chapter, "mortgage guaranty insurance" means insurance

34 against:

35 (1) financial loss because of nonpayment of principal,

36 interest, and other amounts agreed to be paid under the terms of a

37 note, bond, or other evidence of indebtedness that is secured by an

1 authorized real estate security, provided the improvement on the
2 real estate is:

3 (A) one or more residential buildings designed to
4 be occupied by not more than four families;

5 (B) a condominium unit; or

6 (C) one or more buildings designed to be occupied
7 by five or more families or for industrial or commercial purposes;
8 or

9 (2) financial loss because of nonpayment of rent and
10 other amounts agreed to be paid under the terms of a written lease
11 for the possession, use, or occupancy of real estate, provided the
12 improvement on the real estate is one or more buildings designed to
13 be occupied for industrial or commercial purposes. (V.T.I.C.
14 Art. 21.50, Sec. 1 (part).)

15 Source Law

16 Art. 21.50

17 Sec. 1. The definitions set forth herein shall
18 govern the construction of the terms used in this
19 Article but shall not affect any other provisions of
20 this Code.

21 (a) "Mortgage guaranty insurance" means:

22 (1) Insurance against financial loss by
23 reason of nonpayment of principal, interest and other
24 sums agreed to be paid under the terms of any note or
25 bond or other evidence of indebtedness secured by an
26 authorized real estate security constituting a lien or
27 charge on real estate, provided the improvement on
28 such real estate is a residential building or
29 buildings designed for occupancy by not more than four
30 families, or a condominium unit.

31 (2) Insurance against financial loss by
32 reason of nonpayment of principal, interest and other
33 sums agreed to be paid under the terms of any note or
34 bond or other evidence of indebtedness secured by an
35 authorized real estate security constituting a lien or
36 charge on real estate, provided the improvement on
37 such real estate is a building or buildings designed
38 for occupancy by five or more families or designed to
39 be occupied for industrial or commercial purposes.

40 (3) Insurance against financial loss by
41 reason of nonpayment of rent and other sums agreed to
42 be paid under the terms of a written lease for the
43 possession, use or occupancy of real estate, provided
44 the improvement on such real estate is a building or
45 buildings designed to be occupied for industrial or
46 commercial purposes.

47 . . .

48 Revisor's Note

49 Section 1(a), V.T.I.C. Article 21.50, refers to

1 evidence of indebtedness secured by an authorized real
2 estate security "constituting a lien or charge on real
3 estate." The revised law omits the quoted language as
4 duplicative of the definition of "authorized real
5 estate security" in Section 1(b), V.T.I.C. Article
6 21.50, revised in pertinent part as Section
7 3502.004(a)(2). That section requires that an
8 evidence of indebtedness constitute or be considered a
9 first lien or charge on real estate for the evidence of
10 indebtedness to be an authorized real estate security.

11 Revised Law

12 Sec. 3502.004. AUTHORIZED REAL ESTATE SECURITY
13 DEFINED. (a) In this chapter, "authorized real estate security"
14 means:

15 (1) a proprietary lease and a stock membership
16 certificate issued to a tenant stockholder or resident member of a
17 fee simple cooperative housing corporation as defined in Section
18 216, Internal Revenue Code of 1986; or

19 (2) a mortgage, deed of trust, wraparound mortgage, or
20 other instrument that constitutes a first lien or charge on real
21 estate or is considered to be the equivalent of a first lien or
22 charge on real estate by the Federal National Mortgage Association,
23 the Federal Home Loan Mortgage Corporation, the Federal Housing
24 Finance Board, a successor of one of those entities, an agency of
25 this state, or a federal agency, provided:

26 (A) the improvement on the real estate is a
27 building or buildings designed to be occupied as specified by
28 Section 3502.003(1); and

29 (B) the real estate loan is a type of loan that
30 is:

31 (i) authorized to be made by a bank, savings
32 and loan association, credit union, or insurer that is supervised
33 and regulated by a department of this state or a federal agency;

34 (ii) authorized to be made by a mortgage

1 banker that is an approved seller-servicer of the Federal National
2 Mortgage Association, the Federal Home Loan Mortgage Corporation,
3 or a successor of one of those entities; or

4 (iii) approved by the federal secretary of
5 housing and urban development for participation in a mortgage
6 insurance program.

7 (b) The lien on real estate described by Subsection (a)(2)
8 may be subject and subordinate to:

9 (1) the lien of a public bond, assessment, or tax if
10 there is not a delinquent installment, call, or payment of or under
11 the bond, assessment, or tax;

12 (2) an outstanding mineral, oil, or timber right,
13 right-of-way, easement or right-of-way support, sewer right,
14 building restriction, other restriction or covenant, or other
15 condition or regulation of use; or

16 (3) an outstanding lease on the real estate under
17 which rents or profits are reserved to the owner. (V.T.I.C.
18 Art. 21.50, Sec. 1 (part).)

19 Source Law

20 Sec. 1. The definitions set forth herein shall
21 govern the construction of the terms used in this
22 Article but shall not affect any other provisions of
23 this Code.

24 . . .
25 (b) "Authorized real estate security" for the
26 purposes of Paragraphs (1) and (2) of Subdivision (a)
27 of this section means either:

28 (1) A note, bond or other evidence of
29 indebtedness, secured by a mortgage, deed of trust,
30 wraparound mortgage or other instrument which
31 constitutes or is considered by the Federal National
32 Mortgage Association, the Federal Home Loan Mortgage
33 Corporation, the Federal Home Loan Bank Board, their
34 successors, or agency of this State or of the federal
35 government to be the equivalent of a first lien or
36 charge on real estate; provided:

37 (A) The real estate loan secured in
38 such manner is a type of loan which a bank, savings and
39 loan association, credit union or an insurance
40 company, which is supervised and regulated by a
41 department of this State or an agency of the federal
42 government or a mortgage banker which is an approved
43 seller-servicer of the Federal National Mortgage
44 Association, Federal Home Loan Mortgage Corporation,
45 or their successors, is authorized to make, or a type
46 of loan which is approved by the Secretary of Housing
47 and Urban Development for participation in any
48 mortgage insurance program.

1 (B) The improvement on such real
2 estate is a building or buildings designed for
3 occupancy as specified by Paragraphs (1) and (2) of
4 Subdivision (a) of this section.

5 (C) The lien on such real estate may
6 be subject and subordinate to the following:

7 (i) The lien of any public bond,
8 assessment, or tax, when no installment, call or
9 payment of or under such bond, assessment or tax is
10 delinquent.

11 (ii) Outstanding mineral, oil
12 or timber rights, rights-of-way, easements or
13 rights-of-way support, sewer rights, building
14 restrictions or other restrictions or covenants,
15 conditions or regulations of use, or outstanding
16 leases upon such real property under which rents or
17 profits are reserved to the owner thereof.

18 (2) A note, bond or other evidence of
19 indebtedness secured by a proprietary lease and a
20 stock membership certificate issued to a tenant
21 stockholder or resident member of a fee simple
22 cooperative housing corporation as defined in Section
23 216 of the United States Internal Revenue Code.

24 . . .

25 Revisor's Note

26 (1) Section 1(b), V.T.I.C. Article 21.50,
27 defines "authorized real estate security" for the
28 purposes of the definition of "mortgage guaranty
29 insurance" provided by Section 1(a), V.T.I.C. Article
30 21.50, revised in this chapter as Section 3502.003.
31 The revised law applies the definition throughout this
32 chapter because in context it is clear that the
33 legislature intended "authorized real estate
34 security" to have the same meaning throughout Article
35 21.50, revised as this chapter.

36 (2) Section 1(b), V.T.I.C. Article 21.50,
37 defines "authorized real estate security," in part, as
38 "[a] note, bond or other evidence of indebtedness,
39 secured by" specified instruments. The revised law
40 omits the quoted language as duplicative and
41 inaccurate. As used in this chapter, "authorized real
42 estate security" refers to the specified instruments
43 that secure the evidence of indebtedness and not to the
44 evidence of indebtedness itself. See, for example,
45 the use of the term in Section 1(a), V.T.I.C. Article
46 21.50, revised in this chapter in pertinent part as

1 Section 3502.003(1).

2 (3) Section 1(b)(1), V.T.I.C. Article 21.50,
3 refers to the Federal Home Loan Bank Board. Sections
4 401 and 703 of the Financial Institutions Reform,
5 Recovery, and Enforcement Act of 1989 (Pub. L. No.
6 101-73) abolished the Federal Home Loan Bank Board.
7 Section 702 of that act (codified as 12 U.S.C. Section
8 1422a) established the Federal Housing Finance Board,
9 "which shall succeed to the authority of the Federal
10 Home Loan Bank Board with respect to the Federal Home
11 Loan Banks." The revised law is drafted accordingly.

12 [Sections 3502.005-3502.050 reserved for expansion]

13 SUBCHAPTER B. MORTGAGE GUARANTY INSURERS

14 Revised Law

15 Sec. 3502.051. GENERAL ELIGIBILITY TO WRITE MORTGAGE
16 GUARANTY INSURANCE. (a) An insurer that writes anywhere any class
17 of insurance other than mortgage guaranty insurance may not be
18 issued or continue to hold a certificate of authority to write
19 mortgage guaranty insurance in this state.

20 (b) A mortgage guaranty insurer that writes anywhere the
21 class of mortgage guaranty insurance described by Section
22 3502.003(1)(C) or (2) may not be issued or continue to hold a
23 certificate of authority to write in this state the class of
24 mortgage guaranty insurance described by Section 3502.003(1)(A) or
25 (B). (V.T.I.C. Art. 21.50, Sec. 2 (part).)

26 Source Law

27 Sec. 2. Qualifications for mortgage guaranty
28 insurers shall be as follows:

29 . . .
30 (3) A mortgage guaranty insurer which
31 anywhere transacts any class of insurance other than
32 mortgage guaranty insurance is not eligible for the
33 issuance of a certificate of authority to transact
34 mortgage guaranty insurance in this State nor for the
35 renewal or continuance thereof.

36 (4) A mortgage guaranty insurer which
37 anywhere transacts the classes of insurance defined in
38 Paragraphs (2) and (3) of Subdivision (a) of Section 1
39 is not eligible for the issuance or continuance of a
40 certificate of authority to transact in this State the
41 class of mortgage guaranty insurance defined in

Paragraph (1) of Subdivision (a) of Section 1.

Revisor's Note

Section 2, V.T.I.C. Article 21.50, refers to the renewal of a certificate of authority to write mortgage guaranty insurance. The revised law omits the provisions in Section 2, Article 21.50, relating to the renewal of a certificate of authority because there is no explicit authority for the Texas Department of Insurance to renew a certificate of authority for mortgage guaranty insurance, and under Section 801.053 of this code a certificate of authority is valid until it is suspended or revoked.

Revised Law

Sec. 3502.052. ELIGIBILITY OF FOREIGN OR ALIEN INSURER TO WRITE MORTGAGE GUARANTY INSURANCE. The department may not issue a certificate of authority to a foreign or alien insurer writing mortgage guaranty insurance unless the insurer demonstrates a satisfactory operating experience in the insurer's state of domicile. (V.T.I.C. Art. 21.50, Sec. 2 (part).)

Source Law

Sec. 2. Qualifications for mortgage guaranty insurers shall be as follows:

. . .
(2) A foreign or alien insurer writing mortgage guaranty insurance shall not be eligible for the issuance of a certificate of authority in Texas unless it has demonstrated a satisfactory operating experience in its state of domicile.

. . .

Revised Law

Sec. 3502.053. DISCRIMINATION PROHIBITED. In extending or issuing mortgage guaranty insurance, a mortgage guaranty insurer may not discriminate on the basis of the applicant's sex, marital status, race, color, creed, national origin, disability, or age or solely on the basis of the geographic location of the property to be insured unless:

(1) the discrimination related to geographic location is for a business purpose that is not a mere pretext for unfair

1 discrimination; or

2 (2) the refusal, cancellation, or limitation of the
3 insurance is required by law or regulatory mandate. (V.T.I.C.
4 Art. 21.50, Sec. 1A(1) (part).)

5 Source Law

6 (1) . . . Mortgage guaranty insurers are
7 prohibited from discrimination in the issuance or
8 extension of mortgage guaranty insurance on the basis
9 of the applicant's sex, marital status, race, color,
10 creed, national origin, disability, age, or solely on
11 the geographic location of the property unless (1) the
12 discrimination related to geographic location of the
13 property is for a business purpose that is not a mere
14 pretext for unfair discrimination; or (2) the refusal,
15 cancellation, or limitation is required by law or
16 regulatory mandate.

17 [Sections 3502.054-3502.100 reserved for expansion]

18 SUBCHAPTER C. FORMS AND RATES

19 Revised Law

20 Sec. 3502.101. RATE FILINGS. (a) Not later than the 15th
21 day before the date a mortgage guaranty insurer uses a rate or
22 supplementary rate information in this state, the insurer must file
23 the rate and supplementary rate information, and any changes to the
24 rate or supplementary rate information, with the department.

25 (b) The rate filing must include adequate supporting data,
26 including:

27 (1) information on:

28 (A) past and prospective loss experience in this
29 state and outside the state;

30 (B) catastrophe hazards;

31 (C) expenses of operation; and

32 (D) a reasonable margin for profit and
33 contingencies;

34 (2) an explanation of the insurer's interpretation of
35 any statistical data on which the insurer relied;

36 (3) an explanation and description of the methods used
37 in making the rates; and

38 (4) certification by an appropriate official of the
39 insurer relating to the appropriateness of the charges, rates, or

1 rating plans based on reasonable assumptions and accompanied by
2 adequate supporting information. (V.T.I.C. Art. 21.50, Secs.
3 1A(f) (part), (g).)

4 Source Law

5 (f) A mortgage guaranty insurer shall file with
6 the board all rates and supplementary rate information
7 and all changes and amendments thereto which are to be
8 used in this state at least 15 days before they are to
9 become effective. . . .

10 (g) On any filing of rates or changes and
11 amendments to these rates, the insurer shall file
12 adequate supporting data, including:

13 (1) information on past and prospective
14 loss experience within and outside the state, on
15 catastrophe hazards, on expenses of operation, on a
16 reasonable margin for profit and contingencies;

17 (2) an explanation of the filer's
18 interpretation of any statistical data relied on by
19 it;

20 (3) an explanation and description of the
21 methods used in making the rates;

22 (4) certification by an appropriate
23 official of the insurer relating to the
24 appropriateness of the charges, rates or rating plans
25 based on reasonable assumptions and accompanied by
26 adequate supporting information.

27 Revisor's Note

28 (1) Section 1A(f), V.T.I.C. Article 21.50,
29 refers to the "board," meaning the State Board of
30 Insurance. Chapter 685, Acts of the 73rd Legislature,
31 Regular Session, 1993, abolished the board and
32 transferred its functions to the commissioner of
33 insurance and the Texas Department of Insurance.
34 Throughout this chapter, references to the board have
35 been changed appropriately.

36 (2) Section 1A(f), V.T.I.C. Article 21.50,
37 requires a mortgage guaranty insurer to file with the
38 Texas Department of Insurance the insurer's rates,
39 supplementary rate information, and "all changes and
40 amendments thereto." The revised law omits the
41 reference to "amendments" because it is included in
42 the meaning of "changes."

43 Revised Law

44 Sec. 3502.102. RATE STANDARDS. (a) A mortgage guaranty

1 insurance rate, rating plan, or charge may not be excessive,
2 inadequate, or unfairly discriminatory and must be reasonable with
3 respect to the benefits provided.

4 (b) This chapter does not require the department to:

5 (1) establish standard and absolute rates or a single
6 and uniform rate for each risk or risks; or

7 (2) compel all insurers to adhere to rates previously
8 filed by other insurers.

9 (c) The department may accept different rates for different
10 insurers for the same risk or risks on mortgage guaranty insurance.
11 The department may accept different rates for different insurers as
12 filed by any authorized insurer unless the department finds that
13 the filing does not meet the requirements of this chapter.
14 (V.T.I.C. Art. 21.50, Secs. 1A(f) (part), (j).)

15 Source Law

16 (f) . . . Rates, rating plans, and charges
17 shall not be excessive, inadequate, or unfairly
18 discriminatory and shall be reasonable with respect to
19 the benefits provided.

20 (j) Nothing in this Act shall be considered as
21 compelling the State Board of Insurance to establish
22 standard and absolute rates and the board is
23 specifically authorized, in its discretion, to accept
24 different rates for different insurers for the same
25 risk or risks on the types of insurance covered by this
26 article; nor shall this article be construed as to
27 require the board to establish a single and uniform
28 rate for each risk or risks or to compel all insurers
29 to adhere to such rates previously filed by other
30 insurers; and the board is empowered to accept such
31 different rates for different insurers as filed by any
32 qualified insurer unless it finds that such filing
33 does not meet the requirements of this article.

34 Revisor's Note

35 Section 1A(j), V.T.I.C. Article 21.50, refers to
36 a "qualified insurer." An insurer is "qualified" if
37 the insurer holds a certificate of authority, and
38 "certificate of authority" is the term used throughout
39 this code in relation to an entity's authority to
40 engage in business. For that reason and for
41 consistency of terminology throughout this code, the
42 revised law substitutes "authorized" for "qualified."

1 Revised Law

2 Sec. 3502.103. RECORDING AND REPORTING OF LOSS AND EXPENSE
3 EXPERIENCE AND OTHER DATA. (a) The commissioner shall adopt
4 reasonable rules and statistical plans for the recording and
5 reporting of loss experience and other required data by a mortgage
6 guaranty insurer. The rules and plans must ensure that each
7 insurer's total loss and expense experience is made available in
8 the form and with the detail the commissioner considers necessary.

9 (b) Each mortgage guaranty insurer shall use the
10 statistical plans adopted under this section to record and report
11 loss experience and other required data in accordance with the
12 rules adopted by the commissioner.

13 (c) The commissioner may modify statistical plans adopted
14 under this section. (V.T.I.C. Art. 21.50, Sec. 1A(i).)

15 Source Law

16 (i) The board shall, after due consideration,
17 promulgate reasonable rules and statistical plans
18 which may be modified from time to time and which shall
19 be used thereafter by each insurer in the recording and
20 reporting of its loss experience and such other data as
21 may be required, in order that the total loss and
22 expense experience of all insurers may be made
23 available in such form and detail as may be deemed
24 necessary by the board.

25 Revisor's Note

26 (1) Section 1A(i), V.T.I.C. Article 21.50,
27 requires the commissioner of insurance to adopt
28 reasonable rules and statistical plans "after due
29 consideration." The revised law omits "after due
30 consideration" as unnecessary because the requirement
31 that a rule or a plan be reasonable implies that the
32 commissioner will give the rule or plan due
33 consideration before adopting that rule or plan.

34 (2) Section 1A(i), V.T.I.C. Article 21.50,
35 requires the adoption of "rules and statistical plans
36 which may be modified from time to time." The revised
37 law omits the authorization to modify a rule because
38 the authority to adopt a rule includes the authority to

1 modify that rule. The revised law also omits "from
2 time to time" with respect to the modification of
3 statistical plans because without an express
4 limitation, the authority to modify includes the
5 authority to modify from time to time.

6 Revised Law

7 Sec. 3502.104. POLICY FORM FILINGS. (a) Except as
8 provided by Subsection (b), not later than the 15th day before the
9 date a mortgage guaranty insurer uses a policy form, related form,
10 classification, or rule in this state, the insurer must file the
11 form, classification, or rule with the department.

12 (b) This subsection applies only to a policy form, related
13 form, classification, or rule a mortgage guaranty insurer uses in
14 this state for a policy that provides coverage for a pool or group
15 of loans in connection with the issuance of mortgage-backed
16 securities or bonds. Not later than the 15th day after the date the
17 insurer uses the form, classification, or rule, the insurer shall
18 file the form, classification, or rule with the department.
19 (V.T.I.C. Art. 21.50, Secs. 1A(b) (part), (1) (part).)

20 Source Law

21 (b) [All policy forms, related forms,
22 classifications, and rules used by a mortgage guaranty
23 insurer in this state shall be exempt from approval by
24 the board, but] all such policy forms, related forms,
25 classifications, and rules which are to be used in this
26 state, except those filed under Subsection (1), shall
27 be filed with the board at least 15 days before they
28 are to become effective. . . .

29 (1) Policies providing coverage for a pool or
30 group of loans in connection with the issuance of
31 mortgage-backed securities or bonds . . . all such
32 policy forms, related forms, classifications, and
33 rules which are to be used in this state shall be filed
34 with the board at least 15 days after they are to
35 become effective. . . .

36 Revised Law

37 Sec. 3502.105. POLICY FORM STANDARDS. The commissioner
38 shall disapprove a mortgage guaranty insurance policy form if the
39 form:

40 (1) violates this code or rules adopted by the

1 commissioner; or

2 (2) contains a provision that encourages
3 misrepresentation or is unjust, unfair, inequitable, misleading,
4 deceptive, or contrary to law or to the public policy of this state.
5 (V.T.I.C. Art. 21.50, Sec. 1A(c) (part).)

6 Source Law

7 (c) [No policy of mortgage guaranty insurance]
8 . . . The commissioner shall disapprove any such form
9 if:

10 (1) It is in any respect in violation of or
11 does not comply with this code or rules adopted by the
12 commissioner.

13 (2) It contains provisions which encourage
14 misrepresentation or are unjust, unfair, inequitable,
15 misleading, deceptive, or contrary to law or to the
16 public policy of this state.

17 Revised Law

18 Sec. 3502.106. CLAIM AGAINST RESIDENTIAL BORROWER. A
19 mortgage guaranty insurance policy may not contain a provision that
20 allows subrogation rights or any other claim by the insurer against
21 the borrower for a deficiency arising from a foreclosure sale of a
22 single-family dwelling that is occupied by the borrower as the
23 borrower's principal residence. (V.T.I.C. Art. 21.50, Sec. 1A(c)
24 (part).)

25 Source Law

26 (c) No policy of mortgage guaranty insurance
27 shall contain a provision which allows subrogation
28 rights or any other claim by the insurer against the
29 borrower for a deficiency arising from a foreclosure
30 sale of a single-family dwelling occupied by the
31 borrower as the principal residence of the
32 borrower. . . .

33 Revised Law

34 Sec. 3502.107. EXEMPTION; WITHDRAWAL OF APPROVAL. (a) A
35 policy form, related form, classification, or rule a mortgage
36 guaranty insurer uses in this state, including for a policy
37 described by Section 3502.104(b), is exempt from department
38 approval.

39 (b) If the commissioner finds, after notice and hearing,
40 that the filing of a policy form, related form, classification, or
41 rule is no longer in the best interest of the public, the

1 commissioner may issue an order:

2 (1) suspending the exemption under Subsection (a) with
3 respect to one or more insurers that filed the form,
4 classification, or rule; and

5 (2) requiring each affected insurer to cease and
6 desist using the form, classification, or rule, as the commissioner
7 specifies.

8 (c) If the commissioner finds, after notice and hearing,
9 that a filed policy form or rate no longer meets the requirements of
10 this code, the commissioner may issue an order withdrawing approval
11 of the form or rate. The order must specify the reasons the form or
12 rate no longer meets the requirements. An order under this
13 subsection may not take effect until the 30th day after the date the
14 commissioner issues the order.

15 (d) The commissioner must provide to each insurer that filed
16 a form, classification, rule, or rate that is the subject of a
17 hearing under this section notice of the hearing not later than the
18 20th day before the date of the hearing. The notice must specify
19 the matters to be considered at the hearing. (V.T.I.C. Art. 21.50,
20 Secs. 1A(b) (part), (k), (l) (part).)

21 Source Law

22 (b) All policy forms, related forms,
23 classifications, and rules used by a mortgage guaranty
24 insurer in this state shall be exempt from approval by
25 the board, but The board may, after a hearing
26 held on not less than 20 days' notice, specifying the
27 matters to be considered at such hearing, to every
28 insurer which made such filing, and upon finding that
29 such filing is no longer in the best interest of the
30 public of this state, issue an order suspending such
31 exemption as to any or all insurers which made such
32 filings and ordering such insurers to cease and desist
33 from the use of such policy forms, related forms,
34 classifications, and rules as the board may specify in
35 its order.

36 (k) If at any time the board finds that a policy
37 form or rate filing no longer meets the requirements of
38 this code, it may, after a hearing held on not less
39 than 20 days' notice, specifying the matters to be
40 considered at such hearing, to every insurer which
41 made such filing, issue an order withdrawing its
42 approval thereof. Said order shall specify in what
43 respects the board finds that such filing no longer
44 meets the requirements of this code and shall be
45 effective not less than 30 days after its issuance.

1 (1) [Policies providing coverage for a pool or
2 group of loans in connection with the issuance of
3 mortgage-backed securities or bonds] shall be exempt
4 from approval by the board under Subsection (b) of this
5 section, but

6 Revised Law

7 Sec. 3502.108. RULES. (a) The commissioner may, after
8 notice and hearing, adopt reasonable rules:

9 (1) relating to the minimum standards for coverage
10 under policy forms consistent with the purpose of this chapter and
11 the public policy of this state; and

12 (2) necessary to establish guidelines, procedures,
13 methods, standards, and criteria by which the types of forms and
14 documents submitted to the department are to be reviewed and acted
15 on by the department.

16 (b) The department may establish requirements for data and
17 information filed under this chapter. (V.T.I.C. Art. 21.50, Secs.
18 1A(d), (e), (h).)

19 Source Law

20 (d) The commissioner may, after notice and
21 hearing, adopt reasonable rules relating to the
22 minimum standards for coverage under such policy forms
23 consistent with the purpose of this article and the
24 public policy of this state.

25 (e) The board may, after notice and hearing,
26 adopt reasonable rules and amendments to rules that
27 are necessary for it to establish guidelines,
28 procedures, methods, standards, and criteria by which
29 the various and different types of forms and documents
30 submitted to the board are to be reviewed and acted on
31 by the board.

32 (h) The board may establish requirements for
33 data and information to be filed under this article.

34 Revisor's Note

35 Section 1A(e), V.T.I.C. Article 21.50, permits
36 the commissioner of insurance to adopt rules "and
37 amendments to rules." The revised law omits the quoted
38 language for the reason stated in Revisor's Note (2) to
39 Section 3502.103.

40 [Sections 3502.109-3502.150 reserved for expansion]

1 SUBCHAPTER D. FINANCIAL REQUIREMENTS

2 Revised Law

3 Sec. 3502.151. DEFINITION. In this subchapter,
4 "contingency reserve" means an additional premium reserve
5 established to protect policyholders against the effect of adverse
6 economic cycles or losses. (V.T.I.C. Art. 21.50, Sec. 1(c).)

7 Source Law

8 (c) "Contingency reserve" means an additional
9 premium reserve established for the protection of
10 policyholders against the effect of adverse economic
11 cycles or losses.

12 Revised Law

13 Sec. 3502.152. CAPITAL AND SURPLUS REQUIREMENTS. An
14 insurer may not write mortgage guaranty insurance unless the
15 insurer has the minimum capital and surplus required by Chapter 861
16 for a general casualty company. (V.T.I.C. Art 21.50, Sec. 2.
17 (part).)

18 Source Law

19 Sec. 2. Qualifications for mortgage guaranty
20 insurers shall be as follows:

21 (1) An insurer, in order to qualify for
22 writing mortgage guaranty insurance, must have the
23 same minimum capital and surplus as that required of a
24 company by Chapter 8, Texas Insurance Code.
25 . . .

26 Revisor's Note

27 Section 2(1), V.T.I.C. Article 21.50, requires a
28 mortgage guaranty insurer to have the same minimum
29 capital and surplus "required of a company by Chapter
30 8, Texas Insurance Code." V.T.I.C. Chapter 8 was
31 revised as Chapter 861 of this code, which governs
32 general casualty companies, and as Chapter 984 of this
33 code, which governs Mexican casualty insurance
34 companies. The revised law refers only to Chapter 861
35 because the applicable minimum capital and surplus
36 requirements are specified by that chapter.

37 Revised Law

38 Sec. 3502.153. UNEARNED PREMIUM RESERVE. (a) Except as

1 provided by Subsection (b), the unearned premium reserve on
2 mortgage guaranty insurance must be computed in accordance with
3 this code.

4 (b) For a policy covering a risk period of more than one
5 year, the unearned premium reserve must be computed in accordance
6 with standards adopted by the commissioner after appropriate
7 hearings. (V.T.I.C. Art. 21.50, Sec. 3.)

8 Source Law

9 Sec. 3. The unearned premium reserve on
10 mortgage guaranty insurance shall be computed in
11 accordance with the other applicable sections of this
12 Code, except that on all policies covering a risk
13 period of more than one year the unearned premium
14 reserve shall be computed in accordance with standards
15 promulgated by the State Board of Insurance after
16 appropriate hearings.

17 Revised Law

18 Sec. 3502.154. LOSS RESERVE. A mortgage guaranty insurer
19 shall determine the loss reserve using the case basis method. The
20 loss reserve must include a reserve for claims incurred but not
21 reported. (V.T.I.C. Art. 21.50, Sec. 4.)

22 Source Law

23 Sec. 4. On such insurance, the case basis method
24 shall be used to determine the loss reserve, which
25 shall include a reserve for claims incurred but not
26 reported.

27 Revised Law

28 Sec. 3502.155. CONTINGENCY RESERVE. (a) In addition to
29 the capital, surplus, and reserves required by Sections 3502.152,
30 3502.153, and 3502.154, a mortgage guaranty insurer shall establish
31 a contingency reserve and report the contingency reserve as a
32 liability in the insurer's financial statements.

33 (b) To establish and maintain the contingency reserve, the
34 mortgage guaranty insurer shall annually contribute to the
35 contingency reserve 50 percent of the earned premiums on the
36 insurer's mortgage guaranty insurance business. The reserved
37 earned premiums may be released to the insurer's surplus annually
38 after the premiums have been maintained for 120 months.

39 (c) In addition, the mortgage guaranty insurer may withdraw

1 premiums from the contingency reserve in any year for which the
2 insurer can demonstrate to the department that the incurred losses
3 for that year exceed 35 percent of the corresponding earned
4 premiums for that year. The insurer shall reduce any subsequent
5 annual release to surplus from the established contingency reserve
6 by an amount equal to the amount withdrawn and released for the
7 losses. The insurer shall deduct from subsequent annual releases
8 any balance that exceeds the normal annual release from the
9 contingency reserve. (V.T.I.C. Art. 21.50, Sec. 5.)

10 Source Law

11 Sec. 5. In addition to the capital, surplus and
12 reserves specified in Sections 2, 3 and 4 hereof, each
13 mortgage guaranty insurer shall establish a
14 contingency reserve, which shall be reported as a
15 liability in the insurer's financial statements. To
16 provide for and maintain such reserve, the company
17 shall annually contribute to such reserve fifty per
18 cent (50%) of the earned premiums on its mortgage
19 guaranty insurance business. The earned premiums so
20 reserved may be released to the insurer's surplus,
21 annually, after they have been so maintained for 120
22 months. However, withdrawals may be made from such
23 reserve by the insurer in any given year in which the
24 insurer can demonstrate to the State Board of
25 Insurance that the incurred losses for such year
26 exceed thirty-five per cent (35%) of the corresponding
27 earned premiums for such year. The amount so withdrawn
28 and released for such losses shall reduce any
29 subsequent annual release to surplus from the
30 established contingency reserve by an amount equal to
31 the amount so withdrawn, and any balance in excess of
32 the normal annual release from such reserve shall
33 carry over and be deducted from subsequent annual
34 releases.

35 Revised Law

36 Sec. 3502.156. OUTSTANDING TOTAL LIABILITY. (a) A
37 mortgage guaranty insurer may not at any time have outstanding
38 under the insurer's aggregate mortgage guaranty insurance policies
39 a total liability, net of reinsurance, that exceeds the sum of the
40 insurer's capital, surplus, and contingency reserve, multiplied by
41 25.

42 (b) A mortgage guaranty insurer shall compute the insurer's
43 liability for the purposes of this section on the basis of the
44 insurer's liability under the election as provided by Section
45 3502.158. An insurer shall compute the insurer's liability for

1 leases on the basis of the insurer's liability as determined by the
2 department.

3 (c) A mortgage guaranty insurer that has outstanding total
4 liability that exceeds the amount computed under Subsection (a) may
5 not write new mortgage guaranty insurance business until the
6 insurer's total liability no longer exceeds that amount. (V.T.I.C.
7 Art. 21.50, Sec. 6.)

8 Source Law

9 Sec. 6. A mortgage guaranty insurer shall not at
10 any time have outstanding a total liability, net of
11 reinsurance, under its aggregate mortgage guaranty
12 insurance policies exceeding 25 times its capital,
13 surplus and contingency reserve, such liability to be
14 computed on the basis of the insurer's liability under
15 its election as provided in Section 7 and such
16 liability for leases to be computed on the basis of the
17 insurer's liability as determined by the State Board of
18 Insurance. In the event that any insurer has
19 outstanding total liability exceeding 25 times its
20 capital, surplus and contingency reserve, it shall
21 cease transacting new mortgage guaranty business until
22 such time as its total liability no longer exceeds 25
23 times its capital, surplus and contingency reserve.

24 Revised Law

25 Sec. 3502.157. LIMIT ON INSURANCE OF CERTAIN
26 LOANS. (a) In this section, "contiguous" means not separated by
27 more than one-half mile.

28 (b) A mortgage guaranty insurer may not insure loans secured
29 by properties in a single housing tract or a contiguous tract in an
30 amount that exceeds 10 percent of the insurer's capital, surplus,
31 and contingency reserve.

32 (c) In determining the amount of risk under this section, a
33 mortgage guaranty insurer shall deduct from the total direct risk
34 insured any applicable reinsurance in an assuming insurer
35 authorized to engage in the business of mortgage guaranty insurance
36 in this state. (V.T.I.C. Art. 21.50, Sec. 8.)

37 Source Law

38 Sec. 8. A mortgage guaranty insurer shall not
39 insure loans secured by properties in a single housing
40 tract or a contiguous tract in excess of ten per cent
41 (10%) of the insurer's capital, surplus and
42 contingency reserve. In determining the amount of
43 such risk, applicable reinsurance in any assuming
44 insurer authorized to transact mortgage guaranty

1 insurance in this State shall be deducted from the
2 total direct risk insured. "Contiguous," for the
3 purposes of this section, means not separated by more
4 than one-half mile.

5 Revised Law

6 Sec. 3502.158. LIMIT ON COVERAGE FOR CERTAIN INSURED. For
7 the classes of insurance described by Section 3502.003(1), a
8 mortgage guaranty insurer shall elect to:

9 (1) limit the insurer's coverage, net of reinsurance,
10 to a maximum of 25 percent of the entire indebtedness to the
11 insured; or

12 (2) pay the entire indebtedness to the insured and
13 acquire title to the authorized real estate security. (V.T.I.C.
14 Art. 21.50, Sec. 7.)

15 Source Law

16 Sec. 7. A mortgage guaranty insurer shall limit
17 its coverage, net of reinsurance, for the class of
18 insurance defined in Paragraphs (1) and (2) of
19 Subdivision (a) of Section 1 to a maximum of
20 twenty-five per cent (25%) of the entire indebtedness
21 to the insured, or in lieu thereof, a mortgage guaranty
22 insurer may elect to pay the entire indebtedness to the
23 insured and acquire title to the authorized real
24 estate security.

25 [Sections 3502.159-3502.200 reserved for expansion]

26 SUBCHAPTER E. LENDER POWERS AND DUTIES

27 Revised Law

28 Sec. 3502.201. DEFINITION. In this subchapter, "lender"
29 has the meaning assigned by Section 549.001. (V.T.I.C. Art. 21.50,
30 Sec. 1B(d).)

31 Source Law

32 (d) In this section, "lender" has the meaning
33 assigned by Section 1(1), Article 21.48A, of this
34 code.

35 Revised Law

36 Sec. 3502.202. NOTICE OF BORROWER'S RIGHT TO
37 CANCEL. (a) A lender that requires a borrower to purchase
38 mortgage guaranty insurance shall provide annually to the borrower
39 a copy of the following written notice printed in at least 10-point
40 boldfaced type:

41 "NOTICE OF RIGHT TO CANCEL PRIVATE MORTGAGE INSURANCE: If

1 you currently pay private mortgage insurance premiums, you may have
2 the right to cancel the insurance and cease paying premiums. This
3 would permit you to make a lower total monthly mortgage payment and
4 to possibly receive a refund of any unearned premiums on the policy.
5 In most cases, you have the right to cancel private mortgage
6 insurance if the principal balance of your loan is 80 percent or
7 less of the current fair market appraised value of your home. If
8 you want to learn whether you are eligible to cancel this insurance,
9 please contact us at (address and telephone number of lender) or the
10 Texas Department of Insurance consumer help line at (the
11 appropriate toll-free telephone number)."

12 (b) If federal law requires a lender to provide a borrower
13 with a written notice containing substantially the same information
14 required by Subsection (a), a lender that provides the notice
15 required by federal law within the period prescribed by federal law
16 satisfies the notice requirement of Subsection (a). (V.T.I.C.
17 Art. 21.50, Secs. 1B(a), (c).)

18 Source Law

19 Sec. 1B. (a) A lender that requires a borrower to
20 purchase mortgage guaranty insurance shall provide
21 annually to the borrower a copy of the following
22 written notice printed in at least 10-point bold-faced
23 type:

24 "NOTICE OF RIGHT TO CANCEL PRIVATE MORTGAGE
25 INSURANCE: If you currently pay private mortgage
26 insurance premiums, you may have the right to cancel
27 the insurance and cease paying premiums. This would
28 permit you to make a lower total monthly mortgage
29 payment and to possibly receive a refund of any
30 unearned premiums on the policy. In most cases, you
31 have the right to cancel private mortgage insurance if
32 the principal balance of your loan is 80 percent or
33 less of the current fair market appraised value of your
34 home. If you want to learn whether you are eligible to
35 cancel this insurance, please contact us at (address
36 and telephone number of lender) or the Texas
37 Department of Insurance consumer help line at (the
38 appropriate toll-free telephone number)."

39 (c) If federal law requires a lender to provide
40 a borrower with a written notice containing
41 substantially the same information required by
42 Subsection (a) of this section, a lender who provides
43 the notice required by federal law within the period
44 prescribed by federal law satisfies the notice
45 requirement of Subsection (a) of this section.

1 Revised Law

2 Sec. 3502.203. REFUND OF PREMIUM. A lender that receives a
3 refund of an unearned mortgage guaranty insurance premium paid by a
4 borrower shall remit the refund to the borrower not later than the
5 10th business day after the date the lender receives the refund.
6 (V.T.I.C. Art. 21.50, Sec. 1B(b).)

7 Source Law

8 (b) If a lender receives a refund of an unearned
9 mortgage guaranty insurance premium paid by a
10 borrower, the lender shall remit the refund to the
11 borrower not later than the 10th business day after the
12 date on which the lender receives the refund.

13 Revised Law

14 Sec. 3502.204. ADVERTISING OF "INSURED LOANS." A bank,
15 savings and loan association, insurer, or approved seller-servicer
16 of the Federal National Mortgage Association, any of whose
17 authorized real estate securities are insured by a mortgage
18 guaranty insurer, may not state in a brochure, pamphlet, or report
19 or any form of advertising that the real estate loans of the bank,
20 savings and loan association, insurer, or seller-servicer are
21 "insured loans" unless:

22 (1) the brochure, pamphlet, report, or advertising
23 also:

24 (A) clearly states that the loans are insured by
25 private insurers; and

26 (B) lists the names of the private insurers; and

27 (2) the insurance on the real estate loans is written
28 by an insurer authorized to write that insurance in this state.

29 (V.T.I.C. Art. 21.50, Sec. 9.)

30 Source Law

31 Sec. 9. No bank, savings and loan association or
32 insurance company, or an approved seller-servicer of
33 the Federal National Mortgage Association, any of
34 whose authorized real estate securities are insured by
35 a mortgage guaranty insurance company, may state in
36 any brochure, pamphlet, report or any form of
37 advertising that the real estate loans of the bank,
38 savings and loan association, insurance company or an
39 approved seller-servicer of the Federal National
40 Mortgage Association are "insured loans" unless the
41 brochure, pamphlet, report or advertising also clearly

states that the loans are insured by private insurers and the names of the private insurers are given and shall not make any such statement at all unless such insurance is by an insurer certificated to write in this State.

Revisor's Note

Section 9, V.T.I.C. Article 21.50, refers to an "insurer certificated to write [insurance] in this State." The revised law substitutes "authorized" for "certificated" for consistency of terminology in this code.

CHAPTER 3503. SURETY BONDS AND RELATED INSTRUMENTS

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11 COMPANIES 1657

12 CHAPTER 3503. SURETY BONDS AND RELATED INSTRUMENTS

13 SUBCHAPTER A. CERTAIN REQUIRED OR PERMITTED OBLIGATIONS

14 Revised Law

15 Sec. 3503.001. DEFINITION. In this subchapter,

16 "obligation" means a bond, undertaking, recognizance, guaranty, or

17 other obligation that is by law or by a charter, ordinance, or rule

18 of a municipality, board, body, organization, court, or public

19 officer required or permitted to be made, given, tendered, or filed

20 to guarantee the performance of an act, duty, or obligation or the

21 refraining from an act. (V.T.I.C. Art. 7.19-1, Sec. (a) (part).)

22 Source Law

23 Art. 7.19-1. (a) Whenever any bond, undertaking,

24 recognizance or other obligation is, by law or the

25 charter, ordinances, rules and regulations of a

26 municipality, board, body, organization, court, judge

27 or public officer, required or permitted to be made,

28 given, tendered or filed, and whenever the performance

29 of any act, duty or obligation, or the refraining from

30 any act, is required or permitted to be

31 guaranteed,

32 Revisor's Note

33 (1) Section (a), V.T.I.C. Article 7.19-1,

34 refers to "rules and regulations." The revised law

35 omits the reference to "regulations" because under

36 Section 311.005(5), Government Code (Code

37 Construction Act), a rule is defined to include a

38 regulation. That definition applies to the revised

1 law.

2 (2) Section (a), V.T.I.C. Article 7.19-1,
3 refers to an obligation that is required or permitted
4 by "a municipality, board, body, organization, court,
5 judge or public officer" to be made, given, tendered,
6 or filed. Throughout this chapter, the revised law
7 omits the term "judge" in this context because a judge
8 acts on behalf of a court and, therefore, the term
9 "judge" is included within the meaning of "court."

10 Revised Law

11 Sec. 3503.002. EXECUTION OF OBLIGATION BY SURETY
12 COMPANY. (a) A surety company authorized to engage in business in
13 this state may execute an obligation.

14 (b) Except as provided by Section 3503.004 or 3503.005, the
15 execution of an obligation by a surety company under Subsection (a)
16 is in full compliance with each law, charter, ordinance, or rule
17 that requires:

18 (1) the obligation to be executed by one or more
19 sureties; or

20 (2) the executing sureties to possess any
21 qualification, including the requirement that a surety be a
22 resident, householder, or freeholder.

23 (c) Each municipality, board, body, organization, court,
24 public officer, and head of department shall accept and treat an
25 obligation executed by a surety company under Subsection (a) as
26 fully complying with each law, charter, ordinance, or rule
27 described by Subsection (b). (V.T.I.C. Art. 7.19-1, Sec. (a)
28 (part).)

29 Source Law

30 Art. 7.19-1. (a) [Whenever any bond,
31 undertaking, recognizance or other obligation is, by
32 law or the charter, ordinances, rules and regulations
33 of a municipality, board, body, organization, court,
34 judge or public officer, required or permitted to be
35 made, given, tendered or filed, and whenever the
36 performance of any act, duty or obligation, or the
37 refraining from any act, is required or permitted to be
38 guaranteed,] such bond, undertaking, obligation,

1 recognizance or guarantee may be executed by a surety
2 company duly authorized to do business in this state;
3 and, except as provided by Subsection (b), (c), or (d)
4 of this section, such execution by such company of such
5 bond, undertaking, obligation, recognizance or
6 guarantee shall be in all respects a full and complete
7 compliance with every law, charter, rule or regulation
8 that such bond, undertaking, obligation, recognizance
9 or guarantee shall be executed by one surety or by one
10 or more sureties, or that such sureties shall be
11 residents, or householders, or freeholders, or either,
12 or both, or possess any other qualification and all
13 courts, judges, heads of departments, boards, bodies,
14 municipalities, and public officers of every character
15 shall accept and treat such bond, undertaking,
16 obligation, recognizance or guarantee when so executed
17 by such company, as conforming to, and fully and
18 completely complying with, every requirement of every
19 such law, charter, ordinance, rule or
20 regulation. . . .

21 Revisor's Note

22 Section (a), V.T.I.C. Article 7.19-1, refers to
23 "full and complete compliance with every law, charter,
24 rule or regulation" and to "fully and completely"
25 complying with every "such law, charter, ordinance,
26 rule or regulation." The revised law omits the
27 references to "complete" and "completely" as included
28 within the meaning of "full" and "fully,"
29 respectively. In addition, the revised law adds a
30 reference to "ordinance" to the first quoted phrase
31 for consistency of terminology within this section.

32 Revised Law

33 Sec. 3503.003. DESIGNATION OF AGENT BY CORPORATE SURETY
34 REQUIRED. Notwithstanding Section 3503.002, in specifications by
35 a municipality for work or supplies for which sealed bids are
36 required, the municipality may require that a corporate surety
37 tender designate, in a manner satisfactory to the municipality, an
38 agent:

39 (1) who is a resident of the county in which the
40 municipality is located; and

41 (2) to whom any required notices may be delivered and
42 on whom process may be served in matters arising out of the
43 suretyship. (V.T.I.C. Art. 7.19-1, Sec. (a) (part).)

Source Law

(a) . . . Provided, however, that any municipality may require in any specifications for work or supplies, on which sealed bids are required, that any corporate surety tender shall designate, in a manner satisfactory to it, an agent resident in the county of such municipality to whom any requisite notices may be delivered and on whom service of process may be had in matters arising out of such suretyship.

Revised Law

Sec. 3503.004. WRITTEN CERTIFICATION OF REINSURANCE AS
CONDITION OF ACCEPTANCE OF OBLIGATION. (a) If an obligation is in
an amount that exceeds 10 percent of the surety company's capital
and surplus, the municipality, board, body, organization, court, or
public officer may require, as a condition of accepting the
obligation, written certification that the surety company has
reinsured the portion of the risk that exceeds 10 percent of the
surety company's capital and surplus with one or more reinsurers
who are authorized, accredited, or trusteeed to engage in business
in this state.

(b) The amount reinsured by a reinsurer under this section may not exceed 10 percent of the reinsurer's capital and surplus.

(c) On request, the department shall provide the amount of the allowed capital and surplus, as of the date of the last annual statutory financial statement, for a surety company or reinsurer authorized to engage in business in this state. (V.T.I.C. Art. 7.19-1, Sec. (b).)

Source Law

(b) If any bond, undertaking, recognizance, or other obligation described in Subsection (a) of this section is in an amount in excess of 10 percent of the surety company's capital and surplus, the municipality, board, body, organization, court, judge, or public officer may require, as a condition to accepting the bond, undertaking, obligation, recognizance, or other obligation, written certification that the surety company has reinsured the portion of the risk that exceeds 10 percent of the surety company's capital and surplus with one or more reinsurers who are duly authorized, accredited, or trusted to do business in this state. For the purposes of this subsection, the amount reinsured by any reinsurer may not exceed 10 percent of the reinsurer's capital and surplus. The State Board of Insurance shall furnish, on request, the amount of the allowed capital and surplus as of the date of the last annual statutory financial statement for a surety

1 company or reinsurer authorized and admitted to do
2 business in this state.

3 Revisor's Note

4 (1) Section (b), V.T.I.C. Article 7.19-1,
5 refers to the State Board of Insurance. Chapter 685,
6 Acts of the 73rd Legislature, Regular Session, 1993,
7 abolished the board and transferred its functions to
8 the commissioner of insurance and the Texas Department
9 of Insurance. Accordingly, the revised law
10 substitutes a reference to the department for the
11 reference to the board.

12 (2) Section (b), V.T.I.C. Article 7.19-1,
13 refers to a surety company or reinsurer "authorized
14 and admitted to do business in this state." Throughout
15 this chapter, the revised law omits references to a
16 company or reinsurer being "admitted" as unnecessary
17 because a company or reinsurer that is authorized to
18 engage in business in this state is necessarily
19 admitted to engage in that business.

20 Revised Law

21 Sec. 3503.005. ADDITIONAL REQUIREMENTS FOR CERTAIN
22 BONDS. (a) A bond that is made, given, tendered, or filed under
23 Chapter 53, Property Code, or Chapter 2253, Government Code, may be
24 executed only by a surety company that is authorized to write surety
25 bonds in this state. If the amount of the bond exceeds \$100,000,
26 the surety company must also:

27 (1) hold a certificate of authority from the United
28 States secretary of the treasury to qualify as a surety on
29 obligations permitted or required under federal law; or

30 (2) have obtained reinsurance for any liability in
31 excess of \$100,000 from a reinsurer that:

32 (A) is an authorized reinsurer in this state; and

33 (B) holds a certificate of authority from the
34 United States secretary of the treasury to qualify as a surety or
35 reinsurer on obligations permitted or required under federal law.

1 (b) To determine whether the surety on the bond or the
2 reinsurer holds a certificate of authority from the United States
3 secretary of the treasury, a party may conclusively rely on the list
4 published in the Federal Register by the United States Department
5 of the Treasury, covering the date on which the bond was executed,
6 of the companies holding certificates of authority as acceptable
7 sureties on federal bonds and as acceptable reinsuring companies.
8 A purchaser, insurer of title, or lender acquiring or insuring an
9 interest in or title to real property may also conclusively rely on,
10 and is protected by, a statement on a recorded bond or a sworn,
11 recorded statement by the surety that refers to the specific
12 recorded bond and states that, at the time the bond was executed,
13 the surety complied with Subsection (a)(1) or (2). (V.T.I.C. Art.
14 7.19-1, Secs. (c), (d).)

15 Source Law

16 (c) A bond that is made, given, tendered, or
17 filed under Chapter 53, Property Code, or Chapter
18 2253, Government Code, may be executed only by a surety
19 company that is authorized and admitted to write
20 surety bonds in this state. If the amount of the bond
21 exceeds \$100,000, the surety must also:

22 (1) hold a certificate of authority from
23 the United States secretary of the treasury to qualify
24 as a surety on obligations permitted or required under
25 federal law; or

26 (2) have obtained reinsurance for any
27 liability in excess of \$100,000 from a reinsurer that
28 is authorized and admitted as a reinsurer in this state
29 and is the holder of a certificate of authority from
30 the United States secretary of the treasury to qualify
31 as a surety or reinsurer on obligations permitted or
32 required under federal law.

33 (d) In determining whether the surety on the
34 bond or the reinsurer holds a certificate of authority
35 from the United States secretary of the treasury, a
36 party may conclusively rely on the list of companies
37 holding certificates of authority as acceptable
38 sureties on federal bonds and as acceptable reinsuring
39 companies published in the Federal Register by the
40 United States Department of the Treasury covering the
41 date on which the bond was executed. A purchaser,
42 insurer of title, or lender acquiring or insuring an
43 interest or title to real property may also
44 conclusively rely on and is protected by a statement on
45 a recorded bond or a sworn statement by the surety that
46 is recorded and refers to the specific recorded bond
47 and that states that, at the time the bond was
48 executed, the surety:

49 (1) was a holder of a certificate of
50 authority from the United States secretary of the
51 treasury to qualify as a surety on obligations
52 permitted or required under federal law; or

1 (2) had reinsured any liability in excess
2 of \$100,000 by a reinsurer holding a certificate of
3 authority described by Subdivision (1) of this
4 subsection.

5 [Sections 3503.006-3503.050 reserved for expansion]

6 SUBCHAPTER B. PROMPT PAYMENT OF CONSTRUCTION PAYMENT BONDS

7 Revised Law

8 Sec. 3503.051. DEFINITIONS. In this subchapter:

9 (1) "Claimant" means a person directly entitled to
10 payment under a construction payment bond.

11 (2) "Construction payment bond" means a surety
12 agreement or obligation issued to guarantee or assure payment by a
13 principal obligor for work performed or materials supplied or
14 specially fabricated for a public or private construction project.

15 (3) "Notice of claim" means a written notification by
16 a claimant who makes a claim for payment from the surety company.
17 The term does not include a routine statutory notice required by
18 Section 53.056(b), 53.057, 53.058, 53.252(b), or 53.253, Property
19 Code, or Section 2253.047, Government Code.

20 (4) "Surety company" means an authorized surety or
21 guaranty company that executes and delivers a construction payment
22 bond as a surety for a principal obligor. (V.T.I.C. Art. 7.20, Sec.
23 1.)

24 Source Law

25 Sec. 1. In this article:

26 (1) "Claimant" means a person directly
27 entitled to payment under a construction payment bond.

28 (2) "Construction payment bond" means a
29 surety agreement or obligation issued to guarantee or
30 assure payment by a principal obligor for work
31 performed or materials supplied or specially
32 fabricated for a public or private construction
33 project.

34 (3) "Notice of claim" means a written
35 notification by a claimant who makes a claim for
36 payment from the surety company. The term does not
37 include a routine statutory notice required by Section
38 53.056(b), 53.057, 53.058, 53.252(b), or 53.253,
39 Property Code, or Section 2253.047, Government Code.

40 (4) "Surety company" means a licensed
41 surety or guaranty company that executes and delivers
42 a construction payment bond as a surety for a principal
43 obligor.

44 Revised Law

45 Sec. 3503.052. CONSTRUCTION OF SUBCHAPTER. (a) This

1 subchapter shall be construed to encourage prompt payment of just
2 claims made under construction payment bonds of surety companies.
3 This subchapter does not foreclose any other remedy available to a
4 claimant by law or contract.

5 (b) This subchapter may not be construed to:

6 (1) create a private cause of action;

7 (2) be a precondition to judicially enforcing an
8 obligation under a construction payment bond;

9 (3) diminish any other obligation of a surety company
10 that exists by law; or

11 (4) prohibit a surety company from asserting a defense
12 against a construction payment bond claim in a proceeding to
13 enforce a claim. (V.T.I.C. Art. 7.20, Sec. 6.)

14 Source Law

15 Sec. 6. (a) This article shall be construed to
16 encourage prompt payment of just claims made under
17 construction payment bonds of surety companies. This
18 article does not foreclose any other remedy available
19 to a claimant by law or contract.

20 (b) This article may not be construed to:

21 (1) create a private cause of action;

22 (2) be a precondition to judicially
23 enforcing obligations under a construction payment
24 bond;

25 (3) diminish any other obligation of a
26 surety company that exists by law; or

27 (4) prohibit a surety company from
28 asserting a defense against a construction payment
29 bond claim in a proceeding to enforce a claim.

30 Revised Law

31 Sec. 3503.053. CERTAIN TERMS VOID. A term contained in a
32 construction payment bond that is inconsistent with this subchapter
33 is void. (V.T.I.C. Art. 7.20, Sec. 7.)

34 Source Law

35 Sec. 7. Any term contained in a construction
36 payment bond that is inconsistent with this article is
37 void.

38 Revised Law

39 Sec. 3503.054. NOTICE OF CLAIM; ACKNOWLEDGMENT AND
40 INVESTIGATION. (a) A surety company that issues a construction
41 payment bond shall, not later than the 15th day after the date of
42 receipt of notice of claim under the bond:

(1) acknowledge receipt of the claim;

(2) begin any review or investigation necessary to determine whether the surety company is obligated to satisfy the claim under the bond; and

(3) request from the claimant each document, item of information, accounting, statement, or form that the surety company reasonably believes, at that time, will be required from the claimant.

(b) If a construction payment bond provides an address to which a notice of claim under the bond should be submitted, the notice is effective on the date the notice is received at that address.

(c) This subchapter does not exempt a claimant from complying with any applicable statutory or contractual notice requirement. (V.T.I.C. Art. 7.20, Sec. 2.)

Source Law

Sec. 2. (a) A surety company that has issued a construction payment bond shall, not later than the 15th day after the date of receipt of notice of claim under the bond:

(1) acknowledge receipt of the claim;

(2) begin any review or investigation necessary to determine whether the surety company is obligated to satisfy the claim under the bond; and

(3) request from the claimant each document, item of information, accounting, statement, or form that the surety company then reasonably believes will be required from the claimant.

(b) Nothing in this article exempts a claimant from compliance with any applicable statutory or contractual notice requirement.

(c) If the construction payment bond provides an address of the surety company to which claims should be submitted, the notice of claim is effective on receipt of the notice at that address.

Revised Law

Sec. 3503.055. NOTICE OF ACCEPTANCE OR REJECTION OF CLAIM. (a) Except as provided by Subsection (c), a surety company shall notify a claimant in writing of the acceptance or rejection of a claim not later than the 30th day after the date the company receives all documents, items of information, accountings, statements, and forms requested by the company under Section 3503.054.

1 (b) If the surety company rejects all or part of the claim,
2 the notice required by Subsection (a) must state in specific terms
3 the reasons for the rejection that are known by the company at the
4 time of the rejection.

5 (c) If the surety company is unable to accept or reject the
6 claim within the period specified by Subsection (a), the company,
7 in that same period, shall notify the claimant in writing that the
8 company is unable to accept or reject the claim. The notice
9 provided under this subsection must:

10 (1) state the reasons for which the company needs
11 additional time to accept or reject the claim; and

12 (2) include a request for any additional information
13 the company reasonably needs to process the claim.

14 (d) Not later than the 30th day after the date a surety
15 company notifies a claimant under Subsection (c), the company shall
16 notify the claimant in writing of the acceptance or rejection of the
17 claim. If the company rejects all or part of the claim, the company
18 shall state in specific terms the reasons for the rejection that are
19 known by the company at the time of the rejection.

20 (e) In addition to any other contractual or statutory basis
21 for denying a claim, the surety company may reject all or part of a
22 claim:

23 (1) that is the subject of a legitimate dispute
24 between the principal obligor and the claimant; or

25 (2) for which the claimant has failed to provide
26 supporting documents or information the company reasonably
27 requested.

28 (f) The time limits provided by this section and Section
29 3503.054 may be varied by any statute requiring a construction
30 payment bond.

31 (g) This section does not preclude a surety company from
32 asserting any defense in an action brought by a claimant on a
33 construction payment bond if the company makes a good faith effort
34 to inform the claimant in accordance with this section of the

1 reasons for rejecting all or part of the claim. (V.T.I.C. Art.
2 7.20, Sec. 3.)

3 Source Law

4 Sec. 3. (a) Except as provided by Subsection
5 (c) of this section, a surety company shall notify a
6 claimant in writing of the acceptance or rejection of a
7 claim not later than the 30th day after the date the
8 surety company receives all documents, items of
9 information, accountings, statements, and forms
10 requested by the surety company as provided by Section
11 2 of this article.

12 (b) If the surety company rejects all or part of
13 the claim, the notice required by Subsection (a) of
14 this section must state in specific terms the reasons
15 for the rejection known to the surety company at that
16 time.

17 (c) If the surety company is unable to accept or
18 reject the claim within the period specified by
19 Subsection (a) of this section, the surety company
20 shall provide written notice to the claimant, not
21 later than the date specified under Subsection (a),
22 that the surety company is unable to accept or reject
23 the claim within that period. The notice provided
24 under this subsection must:

25 (1) state the reasons for which the surety
26 company needs additional time to accept or reject the
27 claim; and

28 (2) include a request for any additional
29 information reasonably needed by the surety company to
30 process the claim.

31 (d) Not later than the 30th day after the date a
32 surety company notifies a claimant under Subsection
33 (c) of this section, the surety company shall notify
34 the claimant in writing of the acceptance or rejection
35 of the claim. If the surety company rejects all or
36 part of the claim, the surety company shall state in
37 specific terms the reasons for the rejection known to
38 the surety company at that time.

39 (e) In addition to any other contractual or
40 statutory basis for denying a claim, the surety
41 company may reject all or any part of a claim:

42 (1) that is the subject of a legitimate
43 dispute between the principal obligor and the
44 claimant; or

45 (2) for which the claimant has failed to
46 provide supporting documents or information
47 reasonably requested by the surety company.

48 (f) The time limits provided by this section and
49 Section 2 of this article may be varied by any statute
50 requiring a construction payment bond.

51 (g) This section does not preclude a surety
52 company from asserting any defense in any action
53 brought by a claimant against the construction payment
54 bond if a good faith effort is made to inform the
55 claimant in accordance with this section of reasons
56 for rejecting all or part of the claim.

57 Revised Law

58 Sec. 3503.056. PAYMENT OF CLAIM. (a) If a surety company
59 notifies a claimant under Section 3503.055 that the company accepts
60 a claim or part of a claim, the company shall pay the claim not later

1 than the 15th day after the date of the notice.

2 (b) If payment of the claim or part of the claim is
3 conditioned on the execution of a document or performance of an act
4 by the claimant, the surety company shall pay the claim not later
5 than the seventh day after the date the company receives the
6 executed document or evidence that the act has been performed.

7 (c) For purposes of this section, payment of a claim occurs
8 when the surety company places the company's check or draft in the
9 United States mail properly addressed to the claimant or the
10 claimant's representative. (V.T.I.C. Art. 7.20, Sec. 4.)

11 Source Law

12 Sec. 4. (a) If a surety company notifies a
13 claimant under Section 3 of this article that the
14 surety company accepts a claim or part of a claim, the
15 surety company shall pay the claim not later than the
16 15th day after the date of the notice.

17 (b) If payment of the claim or part of the claim
18 is conditioned on the execution of a document or
19 performance of an act by the claimant, the surety
20 company shall pay the claim not later than the seventh
21 day after the date the surety company receives the
22 executed document or evidence that the act has been
23 performed.

24 (c) For purposes of this section, payment of a
25 claim occurs when the surety company places the surety
26 company's check or draft in the United States mail
27 properly addressed to the claimant or the claimant's
28 representative.

29 Revised Law

30 Sec. 3503.057. RULES. The commissioner may adopt rules
31 enforcing this subchapter in cases in which a surety company
32 violates this subchapter as a general business practice. (V.T.I.C.
33 Art. 7.20, Sec. 5.)

34 Source Law

35 Sec. 5. The commissioner may adopt rules
36 enforcing this article in cases in which a surety
37 company violates this article as a general business
38 practice.

39 [Sections 3503.058-3503.100 reserved for expansion]

40 SUBCHAPTER C. OTHER BONDS

41 Revised Law

42 Sec. 3503.101. BAIL BOND CERTIFICATES. (a) In any year,
43 an insurance company authorized to engage in fidelity and surety

1 insurance business in this state may become surety in an amount not
2 to exceed \$200 with respect to each bail bond certificate issued in
3 that year by:

4 (1) an automobile club authorized to transact business
5 in this state; or

6 (2) a truck and bus association incorporated in this
7 state.

8 (b) The bail bond certificate must be a printed card or
9 other certificate that:

10 (1) is issued by:

11 (A) an automobile club authorized to transact
12 business within this state; or

13 (B) a truck and bus association incorporated in
14 this state;

15 (2) is issued to a member of the club or association
16 and signed by the member of the club or association; and

17 (3) contains a printed statement that:

18 (A) a fidelity and surety company authorized to
19 engage in business in this state guarantees the appearance of the
20 member whose signature appears on the card or certificate; and

21 (B) if the member fails to appear in court at the
22 time of trial, the fidelity and surety company will pay any fine or
23 forfeiture imposed on the member in an amount not to exceed \$200.

24 (V.T.I.C. Art. 7.20-1.)

25 Source Law

26 Art. 7.20-1. Any insurance company which has
27 qualified to transact fidelity and surety insurance
28 business in this state may, in any year, become surety
29 in an amount not to exceed \$200 with respect to each
30 bail bond certificate issued in such year by an
31 automobile club, duly licensed to transact business
32 within this state, or by any truck and bus association
33 incorporated in this state. Bail bond certificate
34 means a printed card or other certificate issued by an
35 automobile club, authorized to transact business
36 within this state, or by any truck and bus association
37 incorporated in this state to any of its members, which
38 is signed by such member, and contains a printed
39 statement that a fidelity and surety company
40 authorized to do business in this state guarantees the
41 appearance of the person whose signature appears on
42 the card or certificate, and that such company will, in

1 the event of the failure of said person to appear in
2 court at the time of trial, pay any fine or forfeiture
3 imposed on such person in an amount not to exceed \$200.

4 Revisor's Note

5 V.T.I.C. Article 7.20-1 refers to an automobile
6 club "licensed to transact business in this state."
7 The revised law substitutes "authorized" for
8 "licensed" because "certificate of authority" is the
9 term used in Chapter 722, Transportation Code, in
10 relation to an automobile club's authority to engage in
11 business.

12 [Sections 3503.102-3503.150 reserved for expansion]

13 SUBCHAPTER D. SUIT ON CERTAIN BONDS OR OTHER OBLIGATIONS

14 Revised Law

15 Sec. 3503.151. VENUE OF SUIT ON CERTAIN BONDS OR OTHER
16 OBLIGATIONS. (a) This section applies to:

17 (1) a bond or other obligation of an insurance company
18 authorized to engage in business in this state and to act as surety
19 and guarantor of the fidelity of employees, trustees, executors,
20 administrators, guardians, or others appointed to, or assuming the
21 performance of, any public or private trust under appointment of a
22 court or tribunal, or under contract between private individuals or
23 corporations; or

24 (2) a bond that may be required:

25 (A) to be filed in a judicial proceeding;

26 (B) to guarantee a contract or undertaking
27 between:

28 (i) individuals;

29 (ii) private corporations;

30 (iii) individuals and corporations; or

31 (iv) individuals or private corporations
32 and the state, a municipal corporation, or a county; or

33 (C) of a state, county, municipal, or district
34 official, including a school district official.

35 (b) A proper court in the county in which a bond or other

obligation described by Subsection (a) is filed has jurisdiction of a suit instituted on the bond or obligation. (V.T.I.C. Art. 7.01 (part).)

Source Law

Art. 7.01. If any suit shall be instituted upon any bond or obligation of any insurance company licensed in this State and having authority to act as surety and guarantor of the fidelity of employees, trustees, executors, administrators, guardians or others appointed to, or assuming the performance of any trust, public or private, under appointment of any court or tribunal, or under contract between private individuals or corporations, or upon any bond or bonds that may be required to be filed in any judicial proceedings, or to guarantee any contract or undertaking between individuals, or between private corporations, or between individuals or private corporations and the State and municipal corporations or counties or between corporations and individuals, or on any bond or bonds that may be required of any state official, district official, county official or official of any school district or of any municipality, the proper court of the county wherein said bond is filed shall have jurisdiction of said cause. . . .

Revisor's Note

(1) V.T.I.C. Article 7.01 refers to an insurance company "licensed" in this state. Throughout this chapter, the revised law substitutes "authorized" for "licensed" because "certificate of authority" is the term used throughout this code in relation to an entity's authority to engage in business.

(2) V.T.I.C. Article 7.01 provides for jurisdiction of certain suits on bonds and obligations. The Texas Supreme Court held the article unconstitutional in C. Hayman Construction Company v. American Indemnity Company, 471 S.W.2d 564 (Tex. 1971), because Chapter 39, Acts of the 56th Legislature, 2nd Called Session, 1959, which enacted Article 7.01, violated Article III, Section 35, Texas Constitution, which at that time provided that "[n]o bill . . . shall contain more than one subject, which shall be expressed in its title." However, Article 7.01 is revised in this chapter because in 1987, the

1 legislature enacted Chapter 46, Acts of the 70th
2 Legislature, Regular Session, which amended and had
3 the effect of reinstating Article 7.01.

4 Revised Law

5 Sec. 3503.152. RESIDENCE OF INSURANCE COMPANY. An
6 insurance company described by Section 3503.151 is a resident of a
7 county in which the company engages in business. (V.T.I.C. Art.
8 7.01 (part).)

9 Source Law

10 Art. 7.01. . . . Such guaranty, fidelity and
11 surety companies shall be deemed resident of the
12 counties wherever they may do business, and

13 Revised Law

14 Sec. 3503.153. SERVICE OF PROCESS. In a suit described by
15 Section 3503.151, process shall be served in accordance with
16 Sections 804.003, 804.101, 804.102, 804.103, 804.201, 804.202,
17 804.203(a), (c), and (d), and 804.204, as applicable. (V.T.I.C.
18 Art. 7.01 (part).)

19 Source Law

20 Art. 7.01. . . . Service therein shall be had
21 as provided by Section 2, 3, or 4, Article 1.36 of this
22 code, as applicable. . . .

23 Revised Law

24 Sec. 3503.154. ACCEPTANCE OF SUBCHAPTER. The doing or
25 performance of any business in any county is considered an
26 acceptance of the provisions of this subchapter. (V.T.I.C. Art.
27 7.01 (part).)

28 Source Law

29 Art. 7.01. . . . the doing or performing of any
30 business in any county shall be deemed an acceptance of
31 the provisions of this Act.

32 Revisor's Note

33 V.T.I.C. Article 7.01 refers to the provisions of
34 "this Act." Article 7.01 was enacted by Chapter 39,
35 Acts of the 56th Legislature, 2nd Called Session,
36 1959. Because that act did not add, amend, or repeal
37 any other laws, it is clear that the reference to "this

1 Act" is a reference to Article 7.01, which is revised
2 as this subchapter. Accordingly, the revised law
3 substitutes a reference to "this subchapter" for the
4 reference to "this Act."

5 [Sections 3503.155-3503.200 reserved for expansion]

6 SUBCHAPTER E. REGULATION OF SURETY COMPANY

7 Revised Law

8 Sec. 3503.201. MERGER OR CONSOLIDATION OF CERTAIN
9 COMPANIES. When two or more companies authorized to write
10 fidelity, guaranty, and surety insurance in this state merge or
11 consolidate and, incident to the merger or consolidation, enter
12 into a total reinsurance contract under which the merged or ceding
13 company is dissolved and that company's assets are acquired and
14 liabilities are assumed by the new or surviving company, the
15 commissioner, on finding that the contracting companies have on
16 deposit with the comptroller two or more deposits made for the same
17 or similar purposes under former Article 7.03, repealed by Chapter
18 388, Acts of the 55th Legislature, Regular Session, 1957, or under
19 Section 861.252, shall authorize the comptroller to:

20 (1) retain for a single purpose only the deposit of the
21 greatest amount and value; and

22 (2) permit the new or surviving company, on proper
23 showing that there is duplication of deposits and that the new or
24 surviving company is the owner of those deposits, to withdraw a
25 duplicate or excessive deposit. (V.T.I.C. Art. 7.02.)

26 Source Law

27 Art. 7.02. When two or more companies
28 authorized to write fidelity, guaranty and surety
29 insurance in the State of Texas merge or consolidate,
30 and, incident to such merger or consolidation, enter
31 into a total reinsurance contract by which the merged
32 or ceding company is dissolved, and its assets
33 acquired and liabilities assumed by the new or
34 surviving company, the Commissioner of Insurance, upon
35 finding that the contracting companies have on deposit
36 with the comptroller two or more deposits made for the
37 same or similar purposes under either former Article
38 7.03 (repealed by Acts 1957, 55th Legislature, Regular
39 Session, Chapter 388, p. 1162) or Article 8.05 of the
40 Insurance Code of Texas, shall authorize the
41 comptroller to retain for a single purpose only the

1 deposit of greater or greatest amount and value and to
2 permit the new or surviving reinsuring company, upon
3 proper showing that there is such duplication of
4 deposits and that the new or surviving company is the
5 owner thereof, to withdraw any or all duplicate or
6 excessive deposits.

7 TITLE 14. UTILIZATION REVIEW AND INDEPENDENT REVIEW

8 CHAPTER 4201. UTILIZATION REVIEW AGENTS

9 CHAPTER 4202. INDEPENDENT REVIEW ORGANIZATIONS

10 CHAPTER 4203. PROHIBITED CONSULTANT ACTIVITIES

11 TITLE 14. UTILIZATION REVIEW AND INDEPENDENT REVIEW

12 CHAPTER 4201. UTILIZATION REVIEW AGENTS

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